

REMARKS

Applicant thanks the Examiner for thorough consideration given the present application. Claims 2, 4-8 and 10-19 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth below.

Entry of Amendment

Applicant submits that the entry of the present is proper since it only presents changes to claims 4 and 10 to overcome the indefinite phrase pointed out by the Examiner in claim 4 and further define the similar phrasing in claim 10. Accordingly, entry of the Amendment and full consideration thereof is respectfully requested.

Rejection under 35 USC 112

Claim 4 stands rejected under 35 USC 112, second paragraph as being indefinite. The Examiner objected to the term "confined but open". By way of the present Amendment, Applicant has amended claim 4 to remove this phrase and to point out that the spaces have a common outer wall and a common roof. Claims 4 and 10 have also been amended to make it clearer that the spaces are used for spending of leisure time and for presentation or dwelling. Applicants submit that these phrases help to define the use of the unitary interior spaces. Accordingly, Applicant submits that this rejection is overcome.

Rejection under 35 USC 103

Claims 2, 4-8 and 10-16 stand rejected under 35 USC 103 as being obvious over Blades et al. (US Patent 5, 709, 099). This rejection is respectfully traversed.

The Examiner states that Blades et al. shows a spatial structure with walls and a ceiling arranged for leisure and having separate spaces for different uses in different regulated climates, one being a Nordic type climate. The Examiner admits that Blades et al. does not disclose the use of rooms which are capable of simultaneously maintaining a different temperature than that of the ice area. The Examiner feels that it would have been obvious to include restrooms, eating facilities and utility rooms at temperatures other than freezing.

The Blades et al. reference shows a facility that can be used as either an ice rink or a swimming pool. As indicated in column 5, lines 16-18 the facility can operate in only mode at a given time but can quickly be changed from one to the other. When used as an ice rink, the fluid in the tank is drained and a layer of fluid is placed on an upper surface of a membrane. A refrigerant cools and freezes the layer of fluid to form a layer of ice (column 9, lines 20-30). Thus, the facility permits the shared use of utilities as well as storage, changing rooms, washrooms, concession areas, showers and lobby area (column 3, lines 28-57).

Applicants submit that the Blades et al. facility is different from that of the claimed invention. Claim 4 describes a structure having several unitary interior spaces where the climate is separately regulated at the same time to mimic different geographically related climatological conditions. Thus, the present invention has a number of different climates represented. This differs from the Blades et al device where a main facility may be either an ice rink or a swimming pool and where ancillary rooms such as washrooms, concession areas and lobby area are kept at traditional interior temperatures. When the facility is used as a swimming pool, it appears that there are no geographically related climatological conditions represented. When the facility is used as an ice rink, it may be argued there is at least one such climatological condition is represented. However, at no time are there separate spaces which simultaneously relate to different geographically related climatological conditions. Applicant submits that even if the ancillary areas are kept at a standard interior condition, this is not a geographically related climatological condition. Further, while an ice rink is certainly a cold weather activity, it does not necessarily corresponds to the winter condition of Nordic or Arctic areas. While the surface of the ice in an ice rink clearly is below freezing it is not clear that the air space above the ice represents a Nordic or Arctic area. Even if one assumes that convection would cause the air temperature to be below that of standard interior spaces, the air temperature does not necessarily represent a winter condition of Nordic or Arctic area.

Further, although the reference indicates the presence of ancillary rooms, it is not clear that these rooms would necessarily be at standard interior temperatures and could even be the same temperature as the ice rink or swimming pool. And certainly, the reference fails to show the temperatures of such ancillary rooms would have a climate which mimics different

geographical areas. Accordingly, Applicant submits that claim 4 is not obvious over the Blades et al. reference.

Claims 2-8 and 13-19 depend from claim 4 and as such are also considered to be allowable. In addition, each of these claims recite other features that make them additionally allowable. For example, claim 6 describes the use of plants and animals or artistic structures in separate places. This is not described in the reference. The section cited by the Examiner only refers to the possibility of using components to create rivers or islands and does not relate to plants, animals and artistic structures.

In regard claim 7, the Examiner points out that swimming and skating conditions are interchangeable. However, claim 7 describes spaces for winter and summer arranged at the same time in order to show the seasons of the year. This is not described in the reference.

In regard to claim 8, the Examiner states that the reference shows a space with water and an ice cover. Applicant submits that the reference does not show ice over water and in fact the referenced section of column 9 describes a layer of fluid which is then frozen to form a layer of ice. This appears to indicate that the layer is completely frozen so that no water remains under the ice. This would be in conformance with the structure indicated where the refrigerant is circulated in the floor of the structure so that freezing occurs from the bottom. Further claim 8 discusses winter swimming or fishing which is not described in the reference. Claim 8 also discusses fish or water animals located therein which is not discussed in the reference.

Furthermore, claim 15 discusses that the generation of excess heat from the refrigeration can be used to heat a tropical or summer activity area, which is not shown in the reference. Claim 17 further describes the use of four spaces for the four seasons. Claim 18 describes one of a zoo, fishing and diving pool, snow church and snow hotel which is not taught in the reference. Likewise, claim 19 describes a ski slope which is not seen in the reference.

Claim 10 is an independent method claim which corresponds to claim 4. This claim likewise discusses presenting geographically related climatological conditions and activities in separate spaces, one of the climates being winter conditions in Nordic or Arctic areas. Applicant submits that claim 10 is allowable for similar reasons presented in regard to claim 4 above.

Claim 11 depends from claim 10 and as such is also considered to be allowable. In addition, this claim further describes that the temperatures in the different spaces alternate to imitate the seasonal natural period. This is not described in the Blades et al. reference.

Claim 12 is an independent claim specifically describing the pool having an artificial ice cover to be used for winter swimming or winter fishing. This is not disclosed in any manner in Blades et al.

For these reasons, Applicant submits that all the claims define over the Blades et al. reference.

Claims 17 and 18 stand rejected under 35 USC 103 as being obvious over Blades et al. in view of Petrovich et al. (RU 2116097). This rejection is respectfully traversed.

The Examiner states that the Petrovich et al. reference shows four areas having plants and refers to drawing 1. Applicant's copy of this reference includes only one drawing on the cover page. Applicant do not see any plants in this drawing. Further, Applicant has reviewed the English translation and do not see any reference to plants. If the Examiner persists in this rejection, he is requested to explain where the reference teaches the use of plants.

However, even if the Examiner is correct that reference does teach the use of plants, it is noted that claim 17 specifically describes plants representing the four seasons. Applicant submits that this four seasonal representation is not seen in the reference.

In regard to claim 18, the Examiner points out the Blades et al. shows a pool. However, claim 18 describes an Arctic fishing and diving pool which is not shown either of the references. Accordingly, Applicant submits that claims 17 and 18 define over this combination of references as well.

Claim 19 stand rejected under 35 USC 103 as being obvious over Blades et al. in view of Katayama (US Patent 6,488,590). This rejection is respectfully traversed.

First, Applicant submits that the Katayama does not qualify as a reference since the US filing date of March 9, 2001 is considerably after the priority date of November 9, 1998 which is

presently claimed. Accordingly, Applicant submits that the teaching of Katayama cannot be relied on for an art rejection.

Furthermore, even if the teachings of Katayama were available as a reference, claim 19 would still be allowable based on its dependency on claim 16.

Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over patents relied on by the Examiner, either alone or in combination. Accordingly, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse, Reg. No. 27,295 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.


Dated: December 20, 2006

Respectfully submitted,

By 

Joe McKinney Murcy

Registration No.: 32,334

 BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant